

BOARDS AND COMMISSIONS
Board of Nursing
(New Administrative Regulation)

201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.

RELATES TO: KRS 314.035, 314.103, 314.131(1), 314.137

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the requirements for credentialing dialysis technicians, initially, by renewal, and by reinstatement.

Section 1. Requirements for Initial Dialysis Technician Credential. (1) An individual who wants to be credentialed as a dialysis technician (DT) in order to engage in dialysis care shall:

- (a) File with the board the Application for Dialysis Technician Credential;
- (b) Pay the fee established in Section 4 of this administrative regulation;
- (c) Have completed a board approved DT training program;
- (d) Submit the Checklist for Dialysis Technician Competency Validation; and
- (e) Submit a criminal record check pursuant to subsection (3) of this section and meet the requirements of that subsection.

(2)(a) In addition to the requirements of subsection (1)(a), (b), (d), and (e) of this section, an applicant who has completed an out of state DT training program that is not approved by the board and who does not hold certification from one of the certification organizations listed in subsection (4)(b) of this section shall submit to the board the training program's curriculum and evidence of completion of the training program.

1. The board or its designee shall evaluate the applicant's training program to determine its comparability with the standards as established in 201 KAR 20:472.

2. The board or its designee shall advise an applicant if the training program is not comparable and specify what additional components shall be completed to meet the requirements of 201 KAR 20:472, Section 6.

(b) In addition to the requirements of subsection (1)(a), (b), (d), and (e) of this section, an applicant who has completed an out of state DT training program that is not approved by the board and who holds certification from one of the certification organizations listed in subsection (4), paragraph (b) of this section shall complete an educational module that covers the information contained in 201 KAR 20:472, Section 6(2)(a)2.

(3)(a) The criminal record check shall have been completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card. The applicant shall pay any fee required by the KSP and the FBI.

(b) The applicant shall provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction in any jurisdiction, except for traffic-related misdemeanors (other than DUI) or misdemeanors that are older than five (5) years. The applicant shall provide to the board a letter of explanation that addresses each conviction.

(c) A felony or misdemeanor conviction shall be reviewed by the board to determine if the application shall be processed with no further action. If further action is deemed necessary, the application shall not be processed unless the applicant has entered into an agreed order with

the board. If the parties are unable to agree on terms and conditions for an agreed order, an administrative hearing shall be held.

(4)(a) After the applicant has met the requirements of subsection (1)(a), (b), (c), (d), and (e) of this section, the board shall issue a provisional credential to the applicant. The applicant shall be referred to as a DT Applicant. The DT Applicant shall practice dialysis care under the supervision of a registered nurse.

(b) The provisional credential shall expire eighteen (18) months from the date the application is received by the board. During that time, the applicant shall obtain certification from one of the following certification organizations:

1. The Board of Nephrology Examiners Nursing Technology (BONENT);
2. The Nephrology Nursing Certification Commission (NNCC); or
3. The National Association of Nephrology Technicians/Technologists (NANT).

(c) If the applicant fails to obtain certification as set forth above, the application shall lapse. The applicant may reapply by completing the training program again and meeting the requirements of subsection (1)(a), (b), (c), (d), and (e) of this section. However, a provisional credential shall not be issued.

(5) The DT Applicant shall only practice dialysis care as a DT Applicant until:

- (a) The credential is issued;
- (b) The application is denied by the board; or
- (c) The application lapses.

(6)(a) Upon approval of the Application for Dialysis Technician Credential pursuant to subsection (1) of this section and the applicant's successful certification pursuant to subsection (4) of this section, the board shall issue the DT credential.

(b) If the credential is issued prior to May 1, it shall expire on October 31 of the current credentialing period as defined in 201 KAR 20:085, Section 2.

(c) If the credential is issued on or after May 1, it shall expire on October 31 of the succeeding credentialing period as defined in 201 KAR 20:085, Section 2.

(d) After the issuance of the initial DT credential, the credentialing period shall be as defined in 201 KAR 20:085, Section 2.

Section 2. Renewal. (1) To be eligible for renewal of the credential, the DT shall submit prior to the expiration date of the credential:

- (a) The Application for Renewal of the Dialysis Technician Credential;
- (b) The fee established in Section 4 of this administrative regulation; and
- (c) Evidence of current certification by one of the organizations listed in Section 1(4)(b) of this administrative regulation.

(2) If the application form is submitted on line, it shall be received by the board prior to midnight on the last day of the credentialing period.

(3) If a paper application is submitted, it shall be received no later than the last day of the credentialing period. If the application is not received by the board until after the last day of the credentialing period, the application shall have been postmarked at least seven (7) days prior to the last day of the credentialing period.

(4) All information needed to determine that an applicant meets the requirements for renewal of credential shall be received by the board no later than the last day of the credentialing period. If the information is not received by the board until after the last day of the credentialing period, in order to be considered by the board for the current renewal, the information shall have been postmarked at least seven (7) days prior to the last day of the credentialing period.

(5) Failure to comply with these requirements shall result in the credential lapsing. A person whose credential has lapsed shall comply with Section 3 of this administrative regulation to reinstate the credential.

Section 3. Reinstatement. (1) If the DT credential has lapsed for less than twelve (12) months, an individual may reinstate the credential as follows:

- (a) Submit the Application for Dialysis Technician Credential;
- (b) Provide evidence of certification from a DT certification organization listed in Section 1(4)(b) of this administrative regulation;
- (c) Pay the fee established in Section 4 of this administrative regulation; and
- (d) Provide a criminal record check by the Department of the Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) and comply with the requirements of subsection (2) of this section.

(2)(a) The criminal record check shall have been completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card. The applicant shall pay any fee required by the KSP and the FBI.

(b) The applicant shall provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction in any jurisdiction, except for traffic-related misdemeanors (other than DUI) or misdemeanors that are older than five (5) years. The applicant shall provide to the board a letter of explanation that addresses each conviction.

(c) A felony or misdemeanor conviction shall be reviewed by the board to determine if the application shall be processed with no further action. If further action is deemed necessary, the application shall not be processed unless the applicant has entered into an agreed order with the board. If the parties are unable to agree on terms and conditions for an agreed order, an administrative hearing shall be held.

(3) If the DT credential has lapsed for more than twelve (12) months, an individual may reinstate the credential by one of the following methods.

- (a) If the DT has not worked as a DT in another state, the individual shall:
 - 1. Complete a DT training program approved by the board;
 - 2. After completion of the training program, submit an Application for Dialysis Technician Credential;
 - 3. The supervising registered nurse shall complete and submit the Checklist for Dialysis Technician Competency Validation to the board;
 - 4. Pay the fee established by Section 4 of this administrative regulation;
 - 5. Provide a criminal record check by the KSP and the FBI and comply with subsection (2) of this section; and
 - 6. Provide evidence of certification from a DT certification organization listed in Section 1(4)(b) of this administrative regulation.

- (b) If the DT has worked as a DT in another state, the individual shall:
 - 1. Submit an Application for Dialysis Technician Credential;
 - 2. Submit verification of working as a DT in another state;
 - 3. Pay the fee established by Section 4 of this administrative regulation;
 - 4. Provide a criminal record check by the KSP and the FBI and comply with subsection (2) of this section; and
 - 5. Provide evidence of certification from a DT certification organization listed in Section 1(4)(b) of this administrative regulation.

(4) An application for Dialysis Technician Credential submitted for reinstatement shall be valid for one (1) year from the date of receipt by the board.

(5) Upon approval of the application, the credential shall be reinstated.

Section 4. Fees. (1) The application fee for the initial credential shall be seventy (70) dollars.

(2) The credential renewal fee shall be thirty-five (35) dollars.

(3) The credential reinstatement fee shall be \$100.

(4) A fee of ten (10) dollars shall be charged for issuing a duplicate of the credential.

(5) A check submitted to the board for payment of a fee that is returned by the bank for nonpayment shall be assessed a return check fee of thirty-five (35) dollars.

(6) A fee of ten (10) dollars shall be charged for written verification of a dialysis technician credential. If submitted in list format, a fee of ten (10) dollars for the first name shall be assessed and a fee of one (1) dollar shall be assessed for each additional name.

(7) A fee of twenty-five (25) dollars shall be charged for a name change and the issuance of a new credential.

(8) All fees shall be nonrefundable.

Section 5. Material Incorporated by Reference. (1) The following materials are incorporated by reference:

(a) "Application for Dialysis Technician Credential", 4/2021;

(b) "Application for Renewal of Dialysis Technician Credential", 4/2021; and

(c) "Checklist for Dialysis Technician Competency Validation", 4/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/legalopinions/Pages/laws.aspx>.

JESSICA WILSON, President

APPROVED BY AGENCY: April 15, 2021

FILED WITH LRC: May 18, 2021 at 1:07 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, August 23, 2021 at 10:00 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m., EDT) Tuesday, August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the requirements for credentialing dialysis technicians, initially, by renewal, and by reinstatement.

(b) The necessity of this administrative regulation: This regulation is necessary pursuant to KRS 314.137.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the content of KRS 314.137 by establishing requirements for credentialing dialysis technicians, initially, by renewal, and by reinstatement.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in the effective administration of KRS 314.021, as amended effective June 30, 2021, and KRS 314.137, by establishing requirements for credentialing dialysis technicians, initially, by renewal, and by reinstatement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This regulation will change the DT renewal cycle from two years to one year. In light of this change, the fee required in conjunction with a renewal application has been halved, resulting in no net renewal fee change. This regulation, in conjunction with 201 KAR 20:472, eliminates the DT Trainee role designation, and replaces it with an 18-month period of provisional licensure. During this period, all provisionally licensed DTs will be required to obtain certification from the Board of Nephrology Examiners Nursing Technology (BONENT), the Nephrology Nursing Certification Commission (NNCC), or the National Association of Nephrology Technicians/Technologists (NANT). The application for DT initial licensure and reinstatement has been edited and reformatted, as has the application for DT renewal.

(b) The necessity of the amendment to this administrative regulation: The regulation is necessary for the oversight and credentialing of dialysis technicians, as required by KRS 314.021 (amendment effective June 30, 2021), and KRS 314.137.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation conforms to the content of the authorizing statutes, KRS 314.131(1) and KRS 314.137, by establishing appropriate standards for DT credentialing, in order to protect and safeguard the health and safety of the citizens of the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The regulation will assist in the effective administration of KRS 314.021 and KRS 314.137, by establishing standards for DT credentialing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of April 8, 2021, there were 712 dialysis technicians with a current and active Kentucky DT credential. There are currently seven DT training programs that are located and approved in Kentucky. The Kentucky Board of Nursing, the seven Kentucky DT training programs in the Commonwealth, and all renal dialysis organizations that provide dialysis services within the Commonwealth will all be affected by the repeal of 201 KAR 20:470 and the promulgation of 201 KAR 20:476.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each existing DT training program and renal dialysis organization in Kentucky will need to evaluate their programmatic requirements and standards in light of 201 KAR 20:472, 201 KAR 20:474, and 201 KAR

20:476. DT training is on-the-job training, and employers are necessarily involved in administering training program requirements and overseeing the progression of the trainees from the DT Trainee role designation through provisional licensure, full initial licensure, and renewal of licensure. Employers of DTs will move to validating the credentials of their DT employees on an annual basis in late October and early November of each year, which will simplify oversight of DT renewal, as compared to the oversight required when the renewal cycle was a two-year period, and when DTs renewed their licenses throughout the calendar year, rather than during a fixed renewal period.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The regulation adds a requirement that all DTs obtain certification from the Board of Nephrology Examiners Nursing Technology (BONENT), the Nephrology Nursing Certification Commission (NNCC), or the National Association of Nephrology Technicians/Technologists (NANT), and any resultant cost will be borne by the provisionally licensed DT or their employer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with 201 KAR 20:476 allows DT trainees to obtain full credential status and to lawfully maintain employment in the DT role.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022, with no additional costs specifically related to the implementation of 201 KAR 20:476.

(b) On a continuing basis: Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600 in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined. No ongoing costs are anticipated specifically with regard to implementation of 201 KAR 20:476.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees paid by DTs and DT training programs are the primary source of funding for implementation of 201 KAR 20:476.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The regulation halves the fee required of renewing DTs, in light of the reduction of the renewal cycle from two years to one year, resulting in no net fee increase for renewing DTs. No DT fee increases are anticipated in the foreseeable future.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Reinstating DTs will notice a minor indirect fee increase, as the credential issued upon reinstatement will be valid for one year rather than two. This adjustment is warranted in light of increased personnel costs, as the reinstatement fee has only risen by ten dollars since the passage of HB 184 in 2001, which is when the Kentucky Board of Nursing was first assigned regulatory authority over DTs and DT training programs.

(9) TIERING: Is tiering applied? Tiering was not applied to 201 KAR 20:476, as the regulation treats all DT applicants similarly.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131 and KRS 314.137.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022, with no additional costs specifically related to the implementation of 201 KAR 20:476.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600 in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined. No ongoing costs are anticipated specifically with regard to implementation of 201 KAR 20:476.

(c) How much will it cost to administer this program for the first year? The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022.

(d) How much will it cost to administer this program for subsequent years? Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600 in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No significant changes in agency revenues or expenditures are anticipated specifically with regard to the promulgation and implementation of 201 KAR 20:476.